

**To:** Lauren Charney/R2/USEPA/US@EPA[]  
**Cc:** LuisMendez@ongov.net[LuisMendez@ongov.net]  
**From:** "Kevin C. Murphy"  
**Sent:** Wed 9/1/2010 2:10:25 PM  
**Subject:** Follow-up re Lower Ley Creek Questions and Issues

Lauren:

Following up on our recent conversation and e-mails re Lower Ley Creek, in discussions w/ Motors Liquidation Company the PRPs need to provide the most defensible basis for the anticipated or past costs associated w/ Lower Ley Creek. To do that 2 pieces of information would be helpful. One is the RI for Lower Ley Creek. Some of the PRPs were under the impression that would be available as soon as August 2010. Is it available or will it be available in the near future? The second piece would be the costs incurred by EPA and/or NYSDEC to date. Is that information available, even if only in round numbers and not to the penny? Can it be provided?

Perhaps the more interesting issue and question (and as you may know), the debtor proposes to "pay" any settlement with a distribution of stock in New GM (GM LLC). Certain PRPs may not be precluded by law from holding such an asset. Please confirm that EPA or the receiving government entity can receive and will accept such proceeds in settlement of any EPA cost claims against the PRPs or as a contribution from one or more of the PRPs.

Thank you.

Kevin C. Murphy  
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-----Original Message-----

From: Charney.Lauren@epamail.epa.gov  
[mailto:Charney.Lauren@epamail.epa.gov]  
Sent: Wednesday, August 18, 2010 2:26 PM  
To: Kevin C. Murphy  
Cc: LuisMendez@ongov.net  
Subject: Re: Lower Ley Creek Questions and Issues

Kevin and Luis,

You are correct in that EPA has not made an allocation for liability at Lower Ley Creek. Because our investigations at the Site are ongoing, the information we have about waste streams from particular facilities is preliminary. Other than the sampling data that we have shared with you, the only other information we have that I think you might find useful for attempting your own allocation would be the various 104(e) responses and documents EPA received from PRPs in the mid-1990s. Obviously, because Lower Ley Creek was not identified as a subsite in the mid-1990s, the questions asked in the 104(e) request may not specifically relate to Lower Ley Creek. I have not thoroughly looked through the responses of every PRP (they are voluminous), but you are welcome to come to our offices to look through the site files. I would need a few days notice before you come to review the documents for any claims of confidentiality. I believe that NYS received copies of these 104(e) responses as well, so it may be more convenient for you to visit their offices to look through the site files.

If you'd like to discuss this on the phone, I'm available tomorrow after 2pm.

Lauren P. Charney  
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From: "Kevin C. Murphy" <KMurphy@WladisLawFirm.com>  
To: Lauren Charney/R2/USEPA/US@EPA  
Cc: <LuisMendez@ongov.net>  
Date: 08/18/2010 01:23 PM  
Subject: Lower Ley Creek Questions and Issues

Dear Lauren:

Onondaga County was approached earlier this week by representatives of Motors Liquidation Company who were looking to discuss and potentially settle the County's pending claim in the GM bankruptcy w/ respect to Lower Ley Creek. In making that suggestion, the representatives requested information on costs and waste streams or waste volumes that would support an allocation. They also suggested or were amenable to the discussions being w/ all identified PRPs and not just the County.

While I assume the EPA or State have not conducted any type of allocation, I am writing to inquire what information EPA may have that would be helpful to such a process. If possible, Luis Mendez and I would like to discuss this and other related issues with you and/or other representatives of EPA at your first convenience. We would be available tomorrow or Monday, August 23, 2010.

Thank you.

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